

RHS, RBS, RUS, FSA, USDA**§ 1951.702**

will be treated as an authorized loan(s). Each payment reversed will be re-applied as of the original date of credit. After payments are reversed and re-applied, the servicing official will receive Forms FmHA or its successor agency under Public Law 103-354 451-26 from the Finance Office reflecting the account status.

(1) Account adjustments will be handled as follows:

(i) When a change in interest rate is necessary, retroactive to the date of loan closing on all or a portion of a loan, Form FmHA or its successor agency under Public Law 103-354 1951-13 will be completed according to the FMI and submitted to the Finance Office. Payments will be reversed and re-applied accordingly.

(ii) For accounts to be rescheduled or reamortized, Forms FmHA or its successor agency under Public Law 103-354 1951-4, or 1965-11, as applicable, will be prepared and submitted in accordance with the respective FMI.

(iii) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, the County Supervisor will notify the Finance Office by memorandum, attaching a copy of the promissory note. The Finance Office will establish or reinstate the account according to the terms of the promissory note.

(iv) If a loan is paid in full, the remittance will be handled in the same manner as any other final payment.

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragraph (b)(1) of this section will be serviced according to the applicable servicing regulations for the type loan involved.

[50 FR 45777, Nov. 1, 1985, as amended at 55 FR 35295, Aug. 29, 1990]

§ 1951.569 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely effect the Government's interest. The Adminis-

trator will exercise this authority only at the request of the State Director and on the recommendation of the appropriate Program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.570-1951.599 [Reserved]**§ 1951.600 OMB control number.**

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0102.

Subparts M-N [Reserved]

Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs.

SOURCE: 71 FR 75852, Dec. 19, 2006, unless otherwise noted.

§ 1951.701 Purpose.

This subpart prescribes the policies and procedures for servicing Community and Business Program loans and/or grants made by Rural Development when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. It does not apply to guaranteed loans. Loans sold without insurance by Rural Development to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this subpart will not be made applicable to such loans.

§ 1951.702 Definitions.

As used in this subpart, the following definitions apply:

§ 1951.703

Active borrower. A borrower who has an outstanding account in the records of the Office of the Deputy Chief Financial Officer (ODCFO), including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability of foreclosure did not satisfy the indebtedness.

Assistance. Finance assistance in the form of a loan, grant, or subsidy received.

Debt instrument. Used as a collective term to include promissory note, assumption agreement, grant agreement, or bond.

False information. Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

Inaccurate information. Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

Inactive borrower. A former borrower whose loan(s) has been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the ODCFO.

Recipient. “Recipient” refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, a grant, or a portion of a grant which was unauthorized.

Rural Development. A mission area within the U.S. Department of Agriculture consisting of the Office of the Under Secretary for Rural Development, Office of Community Development, Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service and their successors.

Unauthorized assistance. Any loan, interest subsidy, grant, or portion thereof received by a recipient for which there was no regulatory authorization or for which the recipient was not eligible. Interest subsidy includes subsidy benefits received because a loan was closed at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official or the documents were prepared in error.

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§ 1951.703 Policy.

When unauthorized assistance has been received, an expeditious effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount.

§§ 1951.704–1951.705 [Reserved]

§ 1951.706 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the USDA Office of Inspector General (OIG), through reviews made by Rural Development personnel, or through other means such as information provided by a private citizen who documents that unauthorized assistance has been received by a recipient of Rural Development assistance.

§ 1951.707 Determination of the amount of unauthorized assistance.

(a) *Unauthorized loan amount.* The unauthorized loan amount will be the unauthorized principal plus any interest accruing on the unauthorized principal at the note interest rate until the date paid unless otherwise agreed in writing by Rural Development.

(b) *Unauthorized grant amount.* The unauthorized amount will be the unauthorized grant amount actually expended under the grant agreement plus interest accrued beginning on the date of the demand letter at the interest rate stipulated in the applicable grant agreement, or, if none is stated, the default rate established by the U.S. Department of the Treasury, until the date paid unless otherwise agreed in writing by Rural Development.

§ 1951.708 Notification to recipient.

(a) Upon determination that unauthorized assistance was received, Rural Development will send a demand letter to the recipient that:

(1) Specifies the amount of unauthorized assistance, including any accrued interest to be repaid, and the standards for imposing accrued interest;

(2) States the amount of penalties and administrative costs to be paid, the standards for imposing them, and the date on which they will begin to accrue;